



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Electro-Magnetic Processes, Inc.
File: B-227912
Date: September 17, 1987

DIGEST

Protest of agency's rejection of protester's proposal to supply complex antenna systems is without merit where the agency advised potential offerors that access to a complete and current technical data package would be a prerequisite for award of a contract but the protester demonstrated access to only 15 percent of the required drawings, most of which are outdated.

DECISION

Electro-Magnetic Processes, Inc. (EMP), protests the rejection of its proposal submitted in response to request for quotations (RFQ) No. F04606-87-Q-51612, issued by the Sacramento Air Logistics Center, McClellan Air Force Base, California. We deny the protest.

The agency issued the RFQ to procure 20 AN/APQ-130 radar antennas for use on the F-111D aircraft. Because the agency did not have a data package for the items sufficient to permit competition, it issued the RFQ on a sole-source basis to Cubic Corporation, which the agency presumed had the necessary data since that firm had been responsible for a major portion of the work required to produce the antenna system. The Air Force had synopsised its requirement in the Commerce Business Daily (CBD) and it sent copies of the RFQ to the five firms that expressed interest in the procurement.^{1/} The CBD synopsis included a note stating

^{1/} Although EMP did not respond to the CBD notice (and the agency therefore did not send it a copy of the RFQ), two of EMP's key personnel met with the agency in November, 1986, to discuss the agency's requirement and specifically the lack of adequate data. At the time, these individuals represented another firm. That firm later notified the agency that this procurement was beyond its capabilities.

that offers from firms other than the prime equipment manufacturer or the actual manufacturer of the item being procured would not be considered for award unless accompanied by complete and current engineering data or evidence that the offeror had previously produced the item. The cover letter accompanying the copies of the RFQ referred to this note and also identified specific "critical" drawings that were not available to the government. The agency reports that the antennas being procured must be "form, fit and function identical" to the antennas in the agency's inventory because the major assemblies of the antennas must be interchangeable.

The agency received two responses to the RFQ, from the protester and from Cubic. The cover letter accompanying the protester's proposal stated that the firm possessed a number of the drawings needed to produce the antennas along with the revisions to these drawings. The cover letter also listed other "invaluable documents" without indicating whether they were in the protester's possession. The firm stated, however, that it planned to "reverse engineer the equipment and build identical systems with complete part interchangeability." The Air Force determined that it could not evaluate the proposal because of the lack of data and requested the firm to provide a complete list of the technical documents and revisions in its possession. Although the protester responded by listing 121 such documents, the agency advised the firm that its offer was unacceptable because this number constituted only 15 percent of the drawing package required to produce the end items. In addition, the agency noted that 90 percent of the drawings listed by the protester were outdated, some by as many as eight revisions.

With respect to Cubic, the agency determined that while that firm had sufficient data regarding the gimbal supports, it did not have drawings for the reflector feedbridge component of the antenna system nor did it have experience with integrating these two components. The Air Force therefore has canceled the RFQ and will procure the antenna systems by contracting with Cubic for the gimbal supports and with another firm for supply of the feedbridge and for integration services. The agency notes that Cubic is under an existing contract to revise the technical orders for the antennas so that a competitive procurement in the future may be possible. The revised technical orders are scheduled for delivery in November, and a competitive procurement of additional antennas may be possible in early 1988.

The protester's basic position is that it is capable now of satisfactorily producing the antennas using whatever technical data are available and reverse engineering. The

firm argues that it has considerable experience in the antenna field and a very capable staff. The protester also argues that acceptance of its proposal would result in monetary savings to the government.^{2/}

The agency does not dispute the protester's ability generally or the qualifications of its personnel. The agency maintains, however, that it cannot accept a proposal for supply of radar antennas from a firm that does not have access to all of the necessary technical data. The agency emphasizes that the antennas being procured are highly complex items consisting of thousands of parts comprising 14 different assemblies and that it is not reasonable to believe that any firm without complete technical data could manufacture the antennas using reverse engineering.

We find no basis on which to object to the agency's rejection of the protester's proposal. The agency expressly advised the protester's key personnel prior to the submission of the firm's proposal that access to complete technical data would be a prerequisite for award of a contract. Despite a further invitation after submission of the proposal to demonstrate compliance with this requirement, the protester failed to show that its technical data package is even close to being complete and current. Indeed, the protester concedes that some of the technical information available is "old" and admits that it does not have sub-assembly drawings. Although the protester may be convinced that reverse engineering will permit it to compensate for the lack of data, the agency is convinced otherwise. The protester has not shown that the agency's position in this regard is unreasonable. We will not question an agency's rejection of a firm's proposed technical approach in the absence of such a showing. See Lenzar Optics Corp., B-225432, Mar. 4, 1987, 87-1 CPD ¶ 246.

The protest is denied.


Seymour Spas
Harry R. Van Cleve
General Counsel

^{2/} The protester has not responded to the agency report, but has elected to have the protest decided based on the initial protest and the report.